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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/993,206

11/16/2001

Brian K. Linstedt

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EXAMINER

HWU, DAVIS D

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 03/31/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,206

Applicant(s)

LINSTEDT ET AL.

Examiner

Davis Hwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 and 34-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18, 21-25, 29-32 and 34-45 is/are allowed.
- 6) ☒ Claim(s) 1-6, 14, 19, 20, 26, 28 and 46-48 is/are rejected.
- 7) ☒ Claim(s) 7-13 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Response to Amendment

1. Applicant's amendment of March 19, 2004 is acknowledged and entered as paper number 12.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-6, 19, 20, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rash.

The patent to Rash discloses an automated sprayer for spraying walls, the sprayer comprising:

- a container 16 for storing a coating material;
- a tray suitable to receive the container in an inverted fashion (see Figure 1);
- a metering system for controlling flow of the material;
- a motorized spray head 15;
- a control for initiating the spray cycle and automatically terminating it;
- wherein the sprayer is configured so as to be mountable within a space when the sprayer is carried by a user and when so mounted can spray the material even when the sprayer does not receive water from a water supply of a building in which the space is located.

The function of spraying a cleanser onto the walls of an enclosure is intended use since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from

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a prior art apparatus satisfying the claimed structural limitations. The device of Rash is fully capable of spraying a cleanser to the walls of an enclosure. Although the device comprises straps 31 and 32 for attachment to the shoulder of a user, one of ordinary skill would recognize that the straps could also act as a hanger for mounting the sprayer on a shower spout if the user does not want to carry the sprayer. The use of suction cups would have been a matter of design choice as a method of attaching the sprayer to a wall if the user does not want to carry out the sprayer. Claim 20 would have been obvious depending on the desired spray distance. The spray material is pressurized by the fluid from pressurized tank 11.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rash in view of Ask.

Ask teaches sprayer comprising a raised member 7 for puncturing a seal covering an opening of a container 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Rash by incorporating a raised member to puncture the seal of the container as taught by Ask to initiate flow of material into the metering device.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rash in view of McDermott et al.

The patent to McDermott et al. teaches storage tank cleaner comprising a rotating nozzle which provides uniform spraying to the inside of the tank. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have

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modified the device of Rash by providing a rotatable fluidic oscillator for the spray head as taught by McDermott et al. to provide uniform spraying to the walls.

6. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ulczynski et al.

Ulczynski et al. discloses an automated sprayer comprising a container 12 containing a spray material, a metering system for controlling flow of the material, a motorized spray head 28 (see Figure 6), and a control for automatically controlling spraying of the material, wherein the sprayer is configured to be mountable via a mounting hook 26 and the sprayer can spray even when the sprayer does not receive water from an outside source, and wherein the sprayer is operated using a battery 36. The sprayer is fully capable of spraying cleanser if desired and can be mounted within an enclosure and on a shower head.

Allowable Subject Matter

7. Claims 7-13 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 15-18, 21-25, 29-32, and 34-45 are allowed.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.



Davis Hwu